

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**GARY P FAIRBANKS
4425 WEST ST
SIOUX CITY IA 51108**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-08086-AT
OC: 04-03-05R: 01
Claimant: Appellant (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Work Search

STATEMENT OF THE CASE:

The claimant, Gary P. Fairbanks filed a timely appeal from an unemployment insurance decision dated August 2, 2005, reference 03, which imposed a warning upon a finding that the claimant had failed to make an active work search for the week ending July 30, 2005. After a review of the information in the claimant's appeal letter and Agency benefit payment records, the administrative law judge concludes that no additional testimony is necessary.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The claimant filed a claim for benefits effective July 24, 2005 after being temporarily laid off by his regular employer.

The claimant remains attached to the regular employer. The Agency miscoded the claim for benefits to indicate that the claimant was required to make an active work search.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the warning should be removed from the claimant's record.

Iowa Code section 96 .4-3 establishes a general rule that all claimants must make an active work search each week that they request benefits. The statute, however, creates several exceptions, one of which is for individuals temporarily laid off from their regular employer. The evidence in this record persuades the administrative law judge that this claimant is such a person. The claimant is not required to make a work search. The warning shall be removed.

DECISION:

The unemployment insurance decision dated August 2, 2005, reference 03, is reversed. The warning is removed from the claimant's record.

dsb/tjc